

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF MICHIGAN**

James Curlee,

Plaintiff,

V.

Credit One Financial d/b/a Credit One Bank,

Defendant.

Civil Action No.: 1:13-cv-01272

## DEMAND FOR JURY TRIAL

## COMPLAINT & JURY DEMAND

For this Complaint, the Plaintiff, James Curlee, by undersigned counsel, states as follows:

## JURISDICTION

1. This action arises out of Defendant's repeated violations of the Telephone Consumer Protection Act, 47 U.S.C. § 227, *et. seq.* (the "TCPA").
2. Supplemental jurisdiction exists pursuant to 28 U.S.C. § 1367.
3. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b), in that Defendant transacts business here, Plaintiff resides in this judicial district, and a substantial portion of the acts giving rise to this action occurred here.

**PARTIES**

4. The Plaintiff, James Curlee (“Plaintiff”), is an adult individual residing in Lawton, Michigan, and is a “person” as defined by 47 U.S.C. § 153(10).
5. Defendant Credit One Financial d/b/a Credit One Bank (“Credit”), is a Nevada business entity with an address of 585 Pilot Road, Las Vegas, Nevada 89119, and is a “person” as defined by 47 U.S.C. § 153(10).

**FACTS**

6. Within the last four years, Credit contacted Plaintiff in an attempt to collect a debt allegedly owed by Plaintiff.

7. At all times referenced herein, Credit placed calls to Plaintiff's cellular telephone using an automated telephone dialer system ("ATDS" or "predictive dialer") and/or by using an artificial or prerecorded voice.

8. When Plaintiff answered ATDS calls from Credit, he would hear a prerecorded message asking him to call Credit in regards to his account. Plaintiff's payments towards his Visa credit card account with Credit have all been on time.

9. In frustration, Plaintiff requested during a conversation that took place on August 23, 2013, that the automated calls to his cellular phone cease.

10. Despite Plaintiff's request, Credit continued to harass Plaintiff with automated calls to his cellular phone at a rate of up to ten calls on a daily basis.

**COUNT I**

**VIOLATIONS OF THE TELEPHONE CONSUMER PROTECTION ACT –  
47 U.S.C. § 227, et seq.**

11. The Plaintiff incorporates by reference all of the above paragraphs of this Complaint as though fully stated herein.

12. At all times mentioned herein and within the last four years, Defendant called Plaintiff on his cellular telephone using an automatic telephone dialing system ("ATDS" or "Predictive Dialer") and/or by using a prerecorded or artificial voice.

13. Plaintiff revoked his consent to be contacted by Defendant on his cellular telephone by his demand to cease calling his cellular telephone.

14. The telephone number called by Defendant was assigned to a cellular telephone

service for which Plaintiff incurred charges for incoming calls pursuant to 47 U.S.C. § 227(b)(1).

15. The calls from Defendant to Plaintiff were not placed for “emergency purposes” as defined by 47 U.S.C. § 227(b)(1)(A)(i).

16. Each of the aforementioned calls made by Defendant constitutes a negligent or intentional violation of the TCPA, including each of the aforementioned provisions of 47 U.S.C. § 227, et. seq.

17. As a result of each of Defendant’s negligent violations of the TCPA, Plaintiff is entitled to an award of \$500.00 in statutory damages for each call placed in violation of the TCPA pursuant to 47 U.S.C. § 227(b)(3)(B).

18. As a result of each of Defendant’s knowing and/or willful violations of the TCPA, Plaintiff is entitled to an award of treble damages in an amount up to \$1,500.00 for each and every violation of the TCPA pursuant to 47 U.S.C. § 227(b)(3)(B) and 47 U.S.C. § 227(b)(3)(C).

**PRAYER FOR RELIEF**

**WHEREFORE**, the Plaintiff prays that judgment be entered against Defendant:

1. Statutory damages pursuant to 47 U.S.C. § 227(b)(3)(B) & (C); and
2. Such other and further relief as may be just and proper.

**TRIAL BY JURY DEMANDED ON ALL COUNTS**

Dated: November 22, 2013

Respectfully submitted,

By: /s/ Sergei Lemberg, Esq.  
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